

STATE OF MICHIGAN
COURT OF APPEALS

MARIE DEAN, Personal Representative of the
Estates of TALEIGHA MARIE DEAN, AARON
JOHN DEAN, CRAIG LOGAN DEAN, and
EUGENE SYLVESTER,

Plaintiff-Appellant,

v

JEFFREY CHILDS and ROYAL OAK
CHARTER TOWNSHIP,

Defendants-Appellees,

and

FRANK MILES, JR., FRANCES THURMAN,
JERRY SADDLER, and CYNTHIA PHILLIPS,

Defendants.

UNPUBLISHED

October 3, 2006

No. 268921

Oakland Circuit Court

LC No. 01-029844-NO

Before: Borrello, P.J., and Jansen and Cooper, JJ.

COOPER, J. (*concurring*).

The majority concludes that summary disposition was appropriately granted in this case. I concur in result, because I must, but I write separately because I believe these proceedings should have been treated differently, and that had they been, the result reached here would be different.

Plaintiff's underlying claim was addressed by our Supreme Court by way of peremptory order. 474 Mich 914; 705 NW2d 344 (2005). In my opinion, the Court should have considered, or ordered the consideration of on remand, the issue of intervening and superseding causation. Proceeding on such a theory rather than on the limiting, and novel, construction that there can be but one proximate cause, plaintiff's initial claims would have survived summary disposition and been put before a trier of fact. Instead, plaintiff has found the doors to the courtroom closed and the justice system can do nothing further to afford this plaintiff her day in court.

/s/ Jessica R. Cooper